

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
HAWAIIAN ELECTRIC COMPANY, INC. for)
)
Approval to commit funds in excess of)
\$500,000 for Item Y48500,)
East Oahu Transmission Project")
_____)

PUC Docket 03-0417

PUBLIC UTILITIES
COMMISSION

JAN 7 2 40 PM '04

FILED

CAROLYN H. WALTHER'S

MOTION TO INTERVENE

&

CERTIFICATE OF SERVICE

Carolyn H. Walther
1520 Puke' Ave.
Honolulu, Hawaii 969816-2823

January 7, 2004

Aloha Commissioners:

On December 18, 2004, HECO filed a document with the Public Utilities Commission ("Commission") titled "In the Matter of the Application of HAWAIIAN ELECTRIC COMPANY, INC. for approval to commit funds in excess of \$500,000 for Item Y48500, East Oahu Transmission Project" ("EOTP"; Kamoku-Pukele").

The PUC Order No. 13201 (Docket No. 7256) stated in part: "the cost of placing transmission lines underground is very high and the burden of that cost ultimately falls upon the ratepayers. Thus, unless (1) there is a compelling reason (which outweighs the costs) to place the lines underground or (2) there is a stated public policy requiring the lines to be laid underground or (3) the ratepayers as a whole consent to bear the high cost of putting the lines underground, we do not believe that we should require HECO to place the transmission lines underground." & (4) the need for additional transmission lines has not yet been addressed.

It is unethical for HECO to assume the ratepayers will pay additional costs to underground lines that ratepayers believe are not needed. Furthermore, the PUC may decide that the lines should go overhead.

According to the PUC Rules a person may make an application to intervene. HECO filed their Application on December 18, 2003. Interveners must file by January 7, 2004. Individuals may represent themselves in PUC Dockets. Motions to Intervene must make reference to:

1) The nature of the applicant's statutory or other right to participate in the hearing.

The principle case defining standing requirements in the courts of Hawaii is Life of the Land v. Land Use Commission, 63 Haw. 166 (1981) (hereinafter "LOL v. LUC"). In this case, the Hawaii Supreme Court addressed the issue of whether LOL and some of its members "who are neither owners of reclassified land nor owners of adjoining reclassified land have standing to invoke judicial scrutiny of the procedures followed" by the LUC. 63 Haw. at 169. In deciding conclusively that LOL had standing, the Hawaii Supreme Court set forth the applicable law: "whether the plaintiff has 'alleged such a personal stake in the outcome of the controversy' as to warrant his invocation of ... jurisdiction and to justify exercise of the court's remedial powers on his behalf."

Precedence in transmission line controversies favor intervention. HECO filed an application (Docket No. 7256), dated March 12 1992, to build transmission lines between their Waiiau Power Plant and Campbell Industrial Park ("Waiiau-CIP"). The public was given 20 days to intervene. Fifty-one (51) weeks after the application was filed, two groups, the Village Park Community Association (VPCA); and the Tungpalan Appellants (16 county and state legislators) applied to intervene. There was no

objection by HECO or the Consumer Advocate to this late intervention. The PUC approved their Motions to Intervene.

During the East Oahu Transmission Project meetings, HECO Vice President Chuck Freedman stated: "There will be a discussion of need and it will be detailed and occur before the PUC. PUC has an evidentiary hearing, court-like in nature, Consumer Advocate represents public, opportunities for interveners, and need will be looked at in great detail. Public part is important, and so is info from company. That day isn't today, we're attempting to get proposals, and comments on impact and preferences. In this you folks are the experts, and you speak to that. Let me just say as clearly -- you can express, no need, one alternative, none. There will be another opportunity before the PUC." Notes from Community Meetings. Codified by 3Point Consulting. page 33. HECO electronic compact disc submittal to the PUC re EOTP. It is appropriate for HECO to determine a need prior to filing with the PUC. Several times at community meetings, HECO was asked to prove the need of additional lines, before selecting a route. HECO has yet to address this issue.

2) The nature and extent of the applicant's property, financial, and other interest in the pending matter. Carolyn H. Walther is an individual landowner in the East Oahu area. Carolyn H. Walther has participated in public meetings regarding this transmission line proposal and its related segments, including public meetings on the proposed Wa'ahila Ridge 138kV line as recently denied, the Pukele (Palolo) to Kamoku route, abandoned, and subsequent public meetings sponsored by HECO in the Leeward and Windward & Hawaii Kai areas of Oahu concerning their proposed alternatives for East Oahu.

3) The effect of the pending order as to the applicant's interest. Carolyn H. Walther is an individual landowner in the East Oahu area, active in environmental, conservation, and community interests and organizations, and concerned about any and all environmental impacts, including but not limited to potential electro-magnetic field (EMF) impacts on the health and safety of residents and school children and visual impacts on significant view-planes; and impacts on property values created by overhead transmission lines & the disruption to the neighborhood areas affected. HECO has suggested a number of different alignments and options, and may expand those options in this docket. To safeguard Carolyn H. Walther's property and environmental interests, she must be allowed standing in this docket.

4) Other Means Available Wherein Applicant May Protect His Interest. There are no other means available to protect Carolyn H. Walther's and other concerned residents in her neighborhoods interests.

5) Other Parties Do Not Represent Movants' Interests. The existing parties are the applicant and the Consumer Advocate (who represents rate impacts to consumers). Carolyn H. Walther is concerned about environmental and property interests and health and welfare of those who will be affected by HECO's proposal..

6) **Movants' Participation will Assist the Development of a Sound Evidentiary Record.** Carolyn H. Walther will help the Commission to be aware of property and environmental interests in the Palolo areas and will assist the Commission in making a more complete and better record.

7) **Movants' Participation Will Neither Unduly Broaden The Issues Nor Delay This Proceeding.** Carolyn H. Walther seeks only to protect her interests. She will do nothing to delay the process or broaden the issues beyond those determined by the PUC.

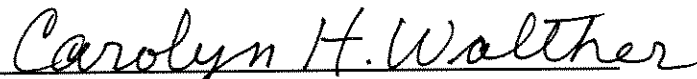
8) **Movants' Interests Differ From Those Of The General Public.** The general public is represented by the Consumer Advocate who represents all consumers. The Consumer Advocate is bound by the law to represent the interests of the general public. Carolyn H. Walther is concerned with environmental impacts and property values in Palolo, as well as the larger community of East Oahu.

9) **Whether the applicant's position is in support of or in opposition to the relief sought.** Carolyn H. Walther opposes this submission.

CONCLUSION

For the above stated reasons, Carolyn H. Walther respectfully requests that the Commission grant her Motion to Intervene.

Dated January 7, 2004



Carolyn H. Walther
1520 Pukele Ave.
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Certificate of Service

I hereby certify that I have this date served a copy of the foregoing Motion to Intervene by Carolyn H. Walther, Docket Number 03-417, upon the following parties. The original and 8 copies to the PUC. Two copies to the Consumer Advocate. Three copies to HECO.

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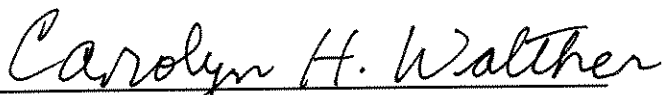
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Dated January 7, 2004


Carolyn H. Walther
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